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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,339	02/12/2004	Donald Lee Sandkuhl		4938

7590 12/15/2004

Donald Lee Sandkuhl  
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Broken Arrow, OK 74011

EXAMINER


WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/777,339	<b>Applicant(s)</b> SANDKUHL, DONALD LEE	
	<b>Examiner</b> Alfred Joseph Wujciak III	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### INTRODUCTION

An examination of this application reveals that applicant may be unfamiliar with patent prosecuting procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed.

Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application. The value of a patent is largely dependent upon skillful preparation and prosecution. Although the services of a registered patent attorney or agent is advised, the Office cannot aid in selecting an attorney or agent. 37 C.F.R. § 1.31; M.P.E.P. § 401. However, Applicant is encouraged to peruse the publication entitled "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

### DISCUSSION

The following discussion provides general information for Applicant's benefit regarding an applicant's response, new matter, the period for response, and the certificate of mailing.

#### *I. Response by Applicant*

The applicant **MUST** respond to every ground of rejection and objection made in an Office action. 37 C.F.R. § 1.111. The applicant will generally present arguments that the examiner's rejections or objections were made in error; or amend the specification, drawings, and/or claims to overcome the rejection or objection. Amendments to the application may not introduce new matter. 37 C.F.R. § 1.118.

Unless the Office explicitly requests the return of a paper, all papers mailed to the applicant are intended to be kept by the applicant for his own records. **The response must be signed by ALL applicants.** 37 C.F.R. § 1.33. The response must be identified by the Serial Number of the Application, the Art Unit, and the name of the examiner. An example follows:

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Appl. No. : XX/YYY,YYY  
Applicant : James Q. Inventor  
Filed: April 19, 2003  
Title : Bucket with Handle  
Art Unit: 3632  
Examiner:: John Doe

### *A. Arguments*

Should the applicant disagree with the examiner's position, the applicant should distinctly and specifically point out the supposed errors in the examiner's action with arguments under the heading "Remarks" in the response. 37 C.F.R. § 1.111. In addition, the applicant must discuss the references cited by the examiner that explain how the claims avoid the references or patentably distinguish from them. *Id.*

### *B. Amendments to the Specification*

An amendment to the specification may remove a rejection or objection. Any amendment to the specification must be presented as a list of additions and deletions, referring to the passages in question by page and line numbers. 37 C.F.R. § 1.121.

An amendment to the specification should appear as follows:

Please replace the paragraph beginning at page 5, line 15, with the following rewritten paragraph:

I -In the construction of the bucket of this invention, various materials have been selected ~~and~~ which offer a number of diverse properties and allow for varied functions of the article. For caustic solutions, the bucket can be made of a durable ~~polymer plastic~~ polymer plastic material. Where an aesthetic appeal is desired, the bucket can be any ~~of~~ one of many attractive colors. The following listing of properties serves to define possible uses for the buckets.—

Please add the following new paragraph after the paragraph ending on line 20 of page 6:

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-- An optional feature of the articles of the invention is the addition of a tetrafluoroethylene coating to the bucket to provide protection from any contents which might be caustic. The coating can be provided to the surface during the manufacturing process or can be added in a later step.--

*C. Amendments to the Claims*

An amendment to the claim may remove a rejection or objection. This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

Claims 1-4 (canceled)

Claim 5 (original): A bucket with a black handle.

Claim 6 (original): A bucket of claim 5 wherein the handle is metal.

Claim 7 (withdrawn)

Claim 8 (currently amended): A bucket made of ~~yellow~~ green plastic.

Claim 9 (previously amended): A bucket made of aluminum-coated galvanized metal.

Claim 10 (previously added): A bucket having a circumferential upper lip.

Claim 11 (new): A plastic bucket having a blue handle.

*D. Drawing Corrections*

Finally, correction of the drawings may remove a rejection or objection. Changes to the drawings are submitted as proposed drawing corrections and can be made only with permission of the Office. 37

C.F.R. § 1.123. Proposed drawing corrections should be filed with the response, but should be a separate

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paper. M.P.E.P. § 608.02(r). The proposed corrections should appear in red ink in the drawings.

M.P.E.P. § 608.02(v).

## *II. New Matter*

As previously mentioned, no amendment to the specification, claims, or drawings may introduce new matter. 37 C.F.R. § 1.118. "New matter" constitutes any material which meets the following criteria:

- (1) It is added to the disclosure (either the specification, the claims, or the drawings) after the filing date of the application, and
- (2) It contains new information which is neither included nor implied in the original version of the disclosure. This includes the addition of physical properties, new uses, etc.

*See* M.P.E.P. § 706.03(o). For example, in the amendment to the claim discussed above, the new limitation of "four legs" would not constitute new matter if the specification or drawings originally described the inclusion of four legs on the chair.

## *III. Period For Response*

An Office action generally sets a time period in which the applicant has to respond to every rejection and objection (called a shortened statutory period). 37 C.F.R. § 1.134. This time period for response appears on the cover letter (form PTO-326) of the Office action. Usually, a 3 month shortened statutory period is set. M.P.E.P. § 710.02(b). The applicant's response must be received within the time period listed on the cover letter, or the application will be held abandoned. 37 C.F.R. § 1.135.

Currently, the Office allows the time period for response to be extended past the shortened statutory period up to a maximum of 6 months (called the maximum 6 month statutory period). In order to extend the period of response past the shortened statutory period, a request for an extension of time and

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payment of the appropriate fee is required. 37 C.F.R. § 1.136. The request must state that it is for "an extension of the period for response under 37 C.F.R. § 1.136(a)." The following table lists the required fees for extensions of the shortened statutory period:

Months Past Response Date	Fee Due (Small / Large Entity)
Response within Time Allowed	None / None
1	\$60 / \$120
2	\$225 / \$450
3	\$510 / \$1,020.00
4	\$795 / \$1,590
5	\$1,080 / \$2,160

It is important to note that no extension of time is permitted that extends the period for response past the maximum 6 month statutory period. Responses received after the maximum 6 month statutory period will be held abandoned. 37 C.F.R. § 1.135.

Three examples are provided:

Example 1:

A complete response is filed four months and one day after the mailing date of an Office action.

The Office action sets a **3 month** shortened statutory period for response. The response must be accompanied by a fee in the amount of \$205 (for a small entity); \$410 for a large entity) for a 2 month extension of time. The response must also contain a statement requesting "an extension of the period for response under 37 C.F.R. § 1.136(a)."

Example 2:

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A complete response is filed five months and one day after the mailing date of an Office action.

The Office action sets a **2 month** shortened statutory period for response. The response must be accompanied by a fee in the amount of \$725 (for a small entity); \$1,450 for a large entity) for a 4 month extension of time. The response must also contain a statement requesting "an extension of the period for response under 37 C.F.R. § 1.136(a)."

Example 3:

A complete response is filed six months and one day after the mailing date of an Office action.

The Office action sets a **3 month** shortened statutory period for response. The response is held abandoned even if accompanied by a fee and a request for an extension of time. Remember, extensions of time may not be used to extend the period for response past the maximum 6 month statutory period. 37

C.F.R. § 1.135.

*IV. Certificate of Mailing*

To ensure that the Applicant's response is considered timely filed, it is advisable to include a "Certificate of Mailing" on at least one page of the response. *See* 37 C.F.R. § 1.8. This "Certificate" should consist of the following statement:

I hereby certify that this correspondence is being deposited with the United States Postal

Service as first class mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicant signature

Date

CONCLUSION AND CAVEAT



The above discussion is not intended to be an exhaustive list of all the topics that may be relevant to this particular Application. The information was provided to familiarize Applicant with the portions of a response that have historically caused problems for *pro se* inventors.

Furthermore, even if Applicant's response is in accordance with the information provided above, there is no guarantee that every requirement of the patent laws (35 U.S.C. §§ 1-376), patent rules (37 C.F.R. §§ 1.1-150.6), and Patent Office policy (M.P.E.P. §§ 101-2591) has been met. The adequacy of a response is determined on a case-by-case basis. *See* 37 C.F.R. § 1.111; M.P.E.P. § 714.02.

### **DETAILED ACTION**

This is the first Office Action for the serial number 10/777,339, GUITAR STAND, filed on 2/12/04.

#### ***Specification***

The abstract of the disclosure is objected to because on page 6, line 1, “tand” should be changed to ---stand--- and “us d” should be changed to ---used---. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: On page 2, line 1, “inv ntion” should be changed to ---invention---; page 2, line 5, “whil” should be changed to ---while---; page 2, line 29, “th” should be changed to ---the---; page 3, line 2, “vi w” should be changed to ---view---; page 3, line 18, “th” should be changed to ---the--- for clarification.

Appropriate correction is required.

#### ***Claim Objections***

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Claim 4 is objected to because of the following informalities: Claim 4, line 4, "further understanding that" should be changed to ---wherein---; claim 4, line 5, "also understanding that" should be changed to ---wherein---. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 4-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the guitar" in line 2 and "the rear of the guitar" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the guitar" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the guitar" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 4,693,161 to Uhrig.

Uhrig teaches a guitar stand (10) is attached to guitar (12) by screws (29) and the stand includes a stop hinge (63) to limit the distance of opening between the stand and guitar. The stand includes a first short hinge leaf (27), a second long hinge leaf (36' and 36'') and a hinge barrel (60) with a stop hinge (63).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 6,422,522 to Woollen in view of US Patent # 4,693,161 to Uhrig, US Patent # 5,639,138 to Smith, US Patent Application Publication # 2004/0060687 to Moss, II and in further view of US Patent # 4,515,338 to Schneider.

Woollen teaches a guitar stand (10) first short hinge leaf (22) used to fasten (36a, 36b and 36c) the stand to a guitar (12). The stand comprises a second long hinge leaf (24) with cross plate (32) attached thereon. The short hinge leaf and the long hinge leaf are connected by a hinge pin (46). The cross plate comprising two extension feet (34a and 34b).

Woollen teaches the stand is fastened to the guitar by fasteners (36a, 36b and 36c) but fails to teach the stand is fastened to the guitar by screws. Uhrig teaches the stand (10) is

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fastened to the guitar (12) by screws (29). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Woollen's fastener with screw as taught by Uhrig to provide designer's choice for the kind of fastener to fasten the stand and guitar together.

Woollen teaches the cross plate and the guitar but fails to teach the cross plate is attached to the guitar by VELCRO fastener. Smith teaches the stand (13) having VELCRO fastener (14) for attaching to back of planar surface (11) with VELCRO fastener (14). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added VELCRO fastener to Woollen's cross plate and guitar as taught by Smith to provide convenience for storage cross plate and guitar together when transporting to a different location.

Woollen teaches the extension feet but fails to teach the extension feet having a pair of vinyl boots. Moss, II teaches the feet (figure 1b) having vinyl boot (figure 1c). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the vinyl boots to Woollen's extension feet as taught by Moss, II to provide protection on the feet and to prevent the stand from sliding or tip over when supporting the guitar.

Woollen teaches the cross plate is attached to the second long hinge leaf but fails to teach the cross plate is riveted to the second long hinge leaf. Schneider teaches the cross plate (16) is riveted (23) to the second long hinge leaf (12). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Wollen's cross plate with riveted as taught by Schneider to provide designer's choice for attaching the cross plate to the second long hinge leaf by a fastener.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 5,197,701 to Olson

US Patent # 6,462,260 to Fediakov

US Patent # 5,029,796 to Schoeing

US Patent # 3,057,591 to Weimer

US Patent # 4,592,265 to Steinberger

US Patent # 6,603,067 to Woollen

US Patent # 3,866,877 to Thompson

US Patent # 3,251,258 to Parker

Olson, Fediakov, Schoeing, Weimer, Steinberger, Woollen, Thompson and Parker teach the guitar stand for supporting the guitar.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

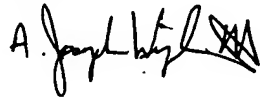
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III

Examiner

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A handwritten signature in black ink, appearing to read 'A. Joseph Wujciak III', with a stylized flourish at the end.

12/10/04